

PROCEEDINGS OF THE BOARD OF HEALTH MEETING

Tuesday, January 13, 2009

5:30 PM

Present: Audrey Murphy, Harold Pfotenhauer, Don Murray, Vue Lor-Yang, Mary Scray

Staff Present: Judy Friederichs, Rebecca Meert, Rob Gollman

Guests Present: Fred Mohr (County Board Attorney), Andy Nicholson (Brown County Supervisor), Peter Flucke (We Bike), J. Tibbetts, M.D.

1. CALL TO ORDER / INTRODUCTIONS / BOARD STATUS UPDATE

The meeting was called to order at 5:30 PM. Staff and guests were welcomed and introduced.

Judy said that she requested that the County Executive move forward on re-appointing Joe VanDeurzen and Dr. Tibbetts to the Board of Health. Their appointments expired on December 31st but both have stated that they are willing to continue to serve as board members.

2. APPROVAL / MODIFICATION OF THE AGENDA

Audrey asked if there were any agenda modifications.

Judy stated that John Paul is ill tonight. He had planned to speak to the board regarding Tourist Rooming Houses. This item will be included on the March agenda.

MOTION: To approve the agenda as amended. Pfotenhauer / Murray

MOTION CARRIED

3. APPROVAL OF MINUTES OF NOVEMBER 17, 2008

MOTION: to receive and place on file. Pfotenhauer / Murray

MOTION CARRIED

4. AUTHORIZATION TO ACCEPT GRANT AWARD: EDUCATION AND ENFORCEMENT FOR INCREASED WALKING AND BICYCLING IN BROWN COUNTY COMMUNITIES

Judy said the health department applied for this grant in response to a request from the state. The grant was awarded to the department in December, pending approval through official governing process. The \$20,000 funding is for 18 months (2009 and six months of 2010).

Becky Meert, Health Educator, stated that she works with communities to help improve infrastructure for walking and biking. The funding for this grant would provide education for law enforcement about bicycle and pedestrian safety enforcement, public bicycle safety programs and promotion of the bicycle transportation map.

Audrey asked what the plans were after the grant runs out. Becky said that communities plan to recruit an attendee at one of the grant-funded classes to become an instructor and continue those classes after the grant runs out. The training officers will be taught safety enforcement and will continue to educate new officers. Funding may continue for an additional 18 months after the initial grant period as this is a five year grant.

Judy stated that the grant would bring people together to develop programming and then be sustained by communities. The funding would promote bike riding which would help reduce the county's high rate of obesity and low rate of physical activity; as well as helping to improve air quality.

Mary asked if the county needed to provide matching funds or hire additional staff. Becky stated that only in-kind match is required and that no staff will be added.

Audrey suggested departing from the regular order of business, to allow Peter Flucke to speak.

MOTION: to suspend the rules to hear public input. Scray/Pfotenhauer

MOTION CARRIED

Peter Flucke stated that he is employed as a consultant specializing in education, engineering, walking and biking enforcement. His background is in parks / recreation and law enforcement.

Peter stated that communities with accessible walking and biking have healthier residents because exercise prevents diseases. It also helps to influence residents' commuting decisions. He felt there was a need for bike safety education.

Audrey thanked him for his comments.

MOTION: To return to regular business. Scray/Pfotenhauer

MOTION CARRIED

MOTION: To approve the 'Education and Enforcement for Increased Walking and Bicycling in Brown County Communities' grant

MOTION CARRIED WITH DISCUSSION: Scray/Lor-Yang

Mary asked Becky if the Sheriff's Department could incorporate the grant. Becky stated that the Department of Transportation has a class on Bicycling and Pedestrian Safety that officers use as a training update, so the law enforcement education part of the grant will be used similarly to one of those classes.

Harold asked Becky who determines where the bicycle lanes will be installed. Becky said the engineer in each community's public works department determines where the bike lanes are placed based on research. They urge the communities to take the safety of pedestrians and bicyclists into consideration when they are constructing and re-constructing roads. Harold stated that he is also concerned about bicyclists' safety. Becky said the courses will promote safety.

5. REVIEW OF CHAPTER 38, BROWN COUNTY CODE OF ORDINANCES, ODOR VIOLATIONS, FOR POTENTIAL REVISIONS

Audrey stated that Brown County Supervisor Andy Nicholson requested that the Board of Health and the Corporation Counsel Attorney review Chapter 38 (4) Brown County Code of Ordinances for Potential Revisions.

Judy said a separate meeting was planned to discuss the ordinance, but Supervisor Nicholson wasn't able to attend. Audrey suggested discussing the ordinance at this meeting. Judy said Supervisor Nicholson requested the ordinance be reviewed and had three proposals – she asked him to summarize the proposals for board members.

1) Supervisor Nicholson said that the ordinance states if there are three verified complaints within an eight hour timeframe at the same location, a health department sanitarian can write a citation. He would like the ordinance changed to read two verified complaints instead of three.

2) Supervisor Nicholson said that he would like to charge a fee to the establishment if the sanitarians are called to verify an odor several times.

3) Supervisor Nicholson said the he would like to charge a sanitarian service fee.

Judy asked Supervisor Nicholson to explain the difference between the establishment and sanitarian service fees. Supervisor Nicholson said he would like some type of fee if the sanitarians were called to the same establishment repeatedly.

Audrey asked Rob Gollman, Public Health Sanitarian, for input. Rob explained the following procedure for the handling of odor complaints:

- 1) The sanitarian is given a complaint report which includes the establishment's name and address.
- 2) The sanitarian calls the complainant to gather any other relevant information he may need to respond to the complaint such as the time the odor occurred.
- 3) The sanitarian goes to the location of the complaint as soon as possible to verify the odor. At this time, the sanitarian asks the complainant to rank the odor on a scale of zero to ten with ten being a strong odor.
- 4) The sanitarian records the time of the complaint, and the time he/she arrives. A copy of the complaint is faxed to the establishment. In the case of Packerland, the complaint is also faxed to Supervisor Nicholson.
- 5) The sanitarian checks to see if any other complaints have been verified for the same establishment within eight hours. If three complaints have been verified, a citation is issued.
- 6) All complaint activity is maintained in a log.

Audrey said that the Board of Health thoroughly reviewed the ordinance in 2006 with input from a Corporation Counsel attorney. This group felt that the ordinance was appropriate for large and small businesses, but the board would be willing to review the ordinance again.

Audrey read Supervisor Nicholson's first proposal from the minutes.

1. A fee is charged each time a complaint is made regarding odor from an industrial or commercial source; and to make it part of the county ordinance.

Audrey asked Attorney Mohr who such a fee would be charged to if there was no odor, and if it was possible to have a fee. Attorney Mohr said it wasn't possible the way the ordinance reads. It's an enforcement ordinance, not an inspection ordinance. There is a presumption of innocence with enforcement ordinances. You can not charge a fee prior to the violation in an enforcement ordinance. An inspection ordinance could be developed, and a fee charged for an inspection. In an enforcement ordinance, there has to be a violation. If you want more fees in an enforcement ordinance, you charge higher penalties based on an estimate

of the number of calls that come in before a violation and the amount of time it takes to respond to those calls.

Mary said she thought number two relates to number one because both fees were proposed to offset sanitarians' expenses. Judy said follow-up does get expensive. Supervisor Nicholson said he was concerned about the expense, especially if the complaint is after normal business hours when sanitarians are paid time-and-a-half.

Audrey asked Supervisor Nicholson if suggestion number one could be deleted, and he agreed to delete it. She asked Attorney Mohr for guidance about Supervisor Nicholson's second suggestion. Audrey read the suggestion.

2. As part of the ordinance, charge a service call fee when a response from a county employee is required to address the complaint.

Supervisor Nicholson commented that if sanitarians are being sent out over and over to the same establishment, it gets expensive.

Supervisor Nicholson said that a fee should be charged if the odor complaints become a nuisance. He said it relates to a business who consistently has odor complaints and sanitarians are sent out to verify the odor repeatedly. The definition of a nuisance would need to be defined.

Audrey said a nuisance is defined in the ordinance. Audrey read from the ordinance:

A thing, an act, a condition or use of property which continues for such length of time as to substantially annoy, injure, or endanger the comfort, health, repose or safety of the public or to cause or is known to have the potential to cause a serious health hazard.

Audrey said that suggestion three states that Supervisor Nicholson would like the number of verifiable complaints in an eight hour timeframe be changed from three to two.

Audrey asked Dr. Tibbetts for input. Dr. Tibbetts stated that discussing the penalty amount and reducing the number of complaints should be considered.

Judy said John reviewed the complaint log for the past year. John stated that, if a citation was issued after two verifiable complaints, 22 citations would have been issued to one company. Rob said neighbors have told them that sometimes they plan to make three complaints within an eight hour period, and it doesn't work out. Supervisor Nicholson requested the following be documented in the minutes. He is not targeting Packerland by changing the ordinance. He is

talking about a county-wide ordinance because there are other areas in the county with odor problems.

Harold stated that, when the first citation is issued the business should consider it a warning to get the problem resolved. If they get another citation for the same problem, they should get a \$5,000 fine.

Rob asked if their division recouped any of the money from the citation. He suggested that the money could be used for their training allowance because that money was deleted. Judy said she and John have talked about tracking the citation money. It was never tracked before because there weren't many citations. She thought the department should receive some of the fee.

Judy said that the ordinance refers to "offending an appreciable number of people". She asked Attorney Mohr if the number of verified complaints was changed to one how that would be defined. Attorney Mohr stated that this would be a judgment call on the part of the inspector. For example, a police officer uses his judgment to determine if someone is driving recklessly enough to warrant a reckless driving citation. Similarly, if the inspector responds to an odor complaint, he would determine, based on his experience, whether an odor is bad enough that it would be likely to offend more than one person.

Don said if the fines were increased, they would affect small businesses more than large businesses. He further said that at the last meeting, there was a motion for the citation to be issued at the maximum amount of \$2,000. The motion further stated that a court date be set six months from date of issue, and if there were no further violations and the company made substantial progress on any remediation plan they were required to complete, the citation could be dismissed. Don said that he voted "Nay" because if the business doesn't pay a fine, they're not being punished. If one complaint justified a violation, he thought the judge would decide whether the violation was justified.

The Board decided to have a light agenda at the March 10th meeting to allow time to review the ordinance. Attorney Mohr stated that he will attend the meeting.

Supervisor Nicholson thanked the Board for their time and consideration.

6. DIRECTOR'S REPORT

Judy reported that there was a Norovirus outbreak in December. In this type of outbreak, people have vomiting and diarrhea, they become very ill suddenly, and the virus is transferred from person to person. This virus is common in long-term care facilities and group living environments. During the outbreak, 18 residents and 17 staff at a long-term care facility were ill. Health department staff educated the staff, reviewed infection control procedures, and made suggestions. The

Bureau of Quality Assurance recommends facilities contact health departments for education during an outbreak.

Judy stated that there was a whooping cough case reported to the department in January. The person had underlying health conditions and was hospitalized.

A low incidence of influenza has been reported. Testing has shown that the flu vaccine contains the same strains of virus that were found to be present in the illnesses reported thus far. Judy further stated that the CDC has found that some antivirals that are used to reduce the severity of the illness are not as effective with strains of illness reported thus far.

A meeting has been scheduled for January 27th to discuss funding for the hearing and vision screening program. Board of Health members, representatives from all public and private school districts, Human Services committee members, and representatives from Prevent Blindness have been invited to the meeting. Health department staff are working on a survey for school staff regarding the program. Audrey said the budget for this program is small in relation to the county budget, the programs are needed, and that they should be administered by the health department. The current program administered by the department provides coordination of school screenings and follow-up with children who may need further services. When health department staff approached the Green Bay school district for funding three years ago, the school superintendent said that their budget could not absorb the program. Mary suggested that by coordinating with a volunteer group, the department might save money. Judy said that in the past, the agency learned from volunteer groups that the number of children that are screened in this program are too many for a group of volunteers to coordinate.

Judy discussed the County Health Rankings for 2008 as compared to those for 2007. Binge drinking, obesity, and sexually transmitted diseases were among the highest-ranked problems. Sexually transmitted diseases are the highest reported communicable diseases in the Brown County area and elsewhere in the state and nation. Health department staff have tried a number of methods to reduce these diseases including an anonymous electronic system for partners to communicate with each other.

Judy stated that department heads have recently received quality assurance training.

Judy stated that a community needs assessment needs to be completed this year. The state requires health departments to complete a full assessment every 4-6 years. A state status review completed in 2002 was accepted as an assessment at that time. During the last assessment, 35 community partners were invited to participate including Board of Health members, the business community, planning, educators, and health care providers.

The department is also due this year for a 5-year audit. Since a face-to-face audit is not required this year, a survey will be sent to the department from the state to verify audit requirements. The Brown County Health Department is a level 3, or full-service department. State qualifications relate to the state public health plan and service areas. The audit will determine if the department meets statutory requirements to continue as a level 3 department. There are financial incentives to be a level three health department, including receiving a larger amount of state grant dollars through the allocation formulas.

The local public health preparedness coordinator is working on the purchase of personal protective equipment using preparedness grant funds for nurses and sanitarians based on the recommendations of a state expert panel. This equipment includes foot covers, gowns, goggles, and different types of gloves. The staff will be educated in the use of this equipment, and a chart will be developed indicating which equipment is needed in different common situations.

A public health exercise is scheduled for October 30th. The primary focus is to test the strategic national stockpile usage. During a disaster, items from the stockpile may be needed to respond to a variety of situations. This exercise will include a mass clinic offering free flu vaccine to 400 people as a way to test the preparedness plan for emergency distribution of vaccines.

7. ANY OTHER BUSINESS AUTHORIZED BY LAW

No other items were discussed.

8. ADJOURNMENT/NEXT MEETING

The next meeting is scheduled for March 10th. At this meeting the board will discuss the odor ordinance. The agenda may also include a presentation regarding fall prevention by a local retired doctor.

MOTION: To Adjourn at 7:24 PM. Scray/Pfotenhauer

MOTION CARRIED